

NATURAL RESOURCES CODE
TITLE 5. GEOTHERMAL ENERGY AND ASSOCIATED RESOURCES
CHAPTER 141. GEOTHERMAL RESOURCES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 141.001. SHORT TITLE. This chapter may be cited as the Geothermal Resources Act of 1975.
Acts 1977, 65th Leg., p. 2640, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 141.002. DECLARATION OF POLICY. It is declared to be the policy of the State of Texas that:

(1) the rapid and orderly development of geothermal energy and associated resources located within the State of Texas is in the interest of the people of the State of Texas;

(2) in developing the state's geothermal energy and associated resources, the primary purpose is to provide a dependable supply of energy in an efficient manner that avoids waste of the energy resources;

(3) consideration shall be afforded to protection of the environment, to protection of correlative rights, and to conservation of natural resources by all agencies and officials of the State of Texas involved in directing and prescribing rules or orders governing the exploration, development, and production of geothermal energy and associated resources and by-products in Texas;

(4) since geopressured geothermal resources in Texas are an energy resource system, and since an integrated development of components of the resources, including recovery of the energy of the geopressured water without waste, is required for best conservation of these natural resources of the state, all of the resource system components, as defined in this chapter, shall be treated and produced as mineral resources; and

(5) in making the declaration of policy in Subdivision (4) of this section, there is no intent to make any change in the substantive law of this state, and the purpose is to restate the law in clearer terms to make it more accessible and understandable.
Acts 1977, 65th Leg., p. 2640, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 394, ch. 185, Sec. 1, eff. Aug. 27, 1979.

Sec. 141.003. DEFINITIONS. In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Board" means the School Land Board.

(3) "Commissioner" means the Commissioner of the General Land Office.

(4) "Geothermal energy and associated resources" means:

(A) products of geothermal processes, embracing indigenous steam, hot water and hot brines, and geopressured water;

(B) steam and other gasses, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations;

(C) heat or other associated energy found in geothermal formations; and

(D) any by-product derived from them.

(5) "By-product" means any other element found in a geothermal formation which is brought to the surface, whether or not it is used in geothermal heat or pressure inducing energy generation.

Acts 1977, 65th Leg., p. 2641, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 395, ch. 185, Sec. 2, eff. Aug. 27, 1979.

SUBCHAPTER B. POWERS AND DUTIES OF THE RAILROAD COMMISSION

Sec. 141.011. GENERAL DUTY OF THE RAILROAD COMMISSION. Except for duties and responsibilities given to other agencies and officials under this chapter, the commission shall regulate the exploration, development, and production of geothermal energy and associated resources on public and private land for the purpose of conservation and the protection of correlative rights.

Acts 1977, 65th Leg., p. 2641, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 141.012. RULES. (a) The commission, in consultation with the commissioner and the executive director of the Texas Natural Resource Conservation Commission, shall make, publish, and enforce rules providing for the rapid and orderly exploration,

development, and production of geothermal energy and associated resources and to accomplish the purposes of this chapter.

(b) The rules made under this section shall include rules governing:

(1) protection of the environment against damage resulting from the exploration, development, and production of geothermal energy and associated resources;

(2) prevention of waste of natural resources, including geothermal energy and associated resources, in connection with the exploration, development, and production of geothermal energy and associated resources;

(3) protection of the general public against injury or damage resulting from the exploration, development, and production of geothermal energy and associated resources; and

(4) protection of correlative rights against infringement resulting from the exploration, development, and production of geothermal energy and associated resources.

(c) Rules shall be made and enforced only after a public hearing.

Acts 1977, 65th Leg., p. 2641, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.276, eff. Sept. 1, 1995.

Sec. 141.013. ADMINISTRATIVE PENALTY. (a) If a person violates provisions of this title which pertain to safety or the prevention or control of pollution or the provisions of a rule, order, license, permit, or certificate which pertain to safety or the prevention or control of pollution and are issued under this title, the person may be assessed a civil penalty by the commission.

(b) The penalty may not exceed \$10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the commission shall consider the person's history of previous violations of this subchapter or the rules, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person.

Added by Acts 1983, 68th Leg., p. 1419, ch. 286, Sec. 6, eff. Aug. 29, 1983.

Sec. 141.014. PENALTY ASSESSMENT PROCEDURE. (a) A civil penalty may be assessed only after the person charged with a violation described under Section 141.013 of this code has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the commission shall consolidate the hearings with other proceedings.

(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The commission shall then issue an order requiring that the penalty be paid.

Added by Acts 1983, 68th Leg., p. 1419, ch. 286, Sec. 6, eff. Aug. 29, 1983.

Sec. 141.015. PAYMENT OF PENALTY; REFUND. (a) On the issuance of an order finding that a violation has occurred, the commission shall inform the permittee and any other person charged within 30 days of the amount of the penalty.

(b) Within the 30-day period immediately following the day on which the decision or order is final as provided in Subchapter F, Chapter 2001, Government Code, the person charged with the penalty shall:

(1) pay the penalty in full; or

(2) if the person seeks judicial review of either the amount of the penalty or the fact of the violation, or both:

(A) forward the amount to the commission for placement in an escrow account; or

(B) in lieu of payment into escrow, post a supersedeas bond with the commission under the following conditions. If the decision or order being appealed is the first final commission decision or order assessing any administrative penalty against the person, the commission shall accept a

supersedeas bond. In the case of appeal of any subsequent decision or order assessing any administrative penalty against the person, regardless of the finality of judicial review of any previous decision or order, the commission may accept a supersedeas bond. Each supersedeas bond shall be for the amount of the penalty and in a form approved by the commission and shall stay the collection of the penalty until all judicial review of the decision or order is final.

(c) If through judicial review of the decision or order it is determined that no violation occurred or that the amount of the penalty should be reduced or not assessed, the commission shall, within the 30-day period immediately following that determination, if the penalty has been paid to the commission, remit the appropriate amount to the person, with accrued interest, or where a supersedeas bond has been posted, the commission shall execute a release of such bond.

(d) Failure to forward the money to the commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

(e) Judicial review of the order or decision of the commission assessing the penalty shall be under the substantial evidence rule and shall be instituted by filing a petition with the district court of Travis County, Texas, and not elsewhere, as provided for in Subchapter G, Chapter 2001, Government Code. Added by Acts 1983, 68th Leg., p. 1419, ch. 286, Sec. 6, eff. Aug. 29, 1983. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(53), (59), eff. Sept. 1, 1995.

Sec. 141.016. RECOVERY OF PENALTY. Civil penalties owed under Sections 141.013-141.015 of this code may be recovered in a civil action brought by the attorney general at the request of the commission. Added by Acts 1983, 68th Leg., p. 1419, ch. 286, Sec. 6, eff. Aug. 29, 1983.

Sec. 141.018. ACCESS TO PROPERTY. Members and employees of the commission, on proper identification, may enter public or private property to inspect and investigate conditions relating to the exploration, development, and production of geothermal energy, to monitor compliance with a rule, permit, or other order of the commission, or to examine and copy, during reasonable working hours, those records or memoranda of the business being investigated. Members or employees acting under the authority of this section who enter an establishment on public or private property shall observe the establishment's safety, internal security, and fire protection rules. Added by Acts 1983, 68th Leg., p. 5263, ch. 967, Sec. 10, eff. Sept. 1, 1983. Renumbered from Sec. 141.013 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(33), eff. Sept. 1, 1987.

SUBCHAPTER C. POWERS AND DUTIES OF THE COMMISSIONER AND BOARD

Sec. 141.071. GENERAL AUTHORITY OF COMMISSIONER. To facilitate and encourage the rapid and orderly development of geothermal energy and associated resources, the commissioner may:

(1) provide for the orderly exploration of land that belongs to the permanent school fund, excluding wildlife refuges and recreational areas except as provided in Section 141.077 of this code; and

(2) issue permits and charge reasonable fees for the permits in accordance with rules promulgated under this chapter by the board.

Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 141.072. DEPOSIT OF FEES. The fees collected from issuance of the permits shall be deposited in General Land Office Fund 80 and used as the legislature may direct. Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 141.073. LEASE OF PERMANENT SCHOOL FUND LAND. (a) On direction of the commissioner, the board may lease land that belongs to the permanent school fund, excluding wildlife refuges and recreational areas, for the production of geothermal energy and associated resources.

(b) The board has full authority to set the terms and conditions of leases and may adopt rules relating to exploration, development, and production of geothermal energy and associated resources as the board determines to be in the best interest of the

state.

(c) The board may require the taking in kind of the state's interest in the geothermal energy and associated resources or its by-products provided from this land.

Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 141.074. FURNISHING LISTS OF LAND TO OTHER AGENCIES. Before advertising land for lease, the commissioner shall furnish a list of the tracts considered by the board for lease to the Texas Natural Resource Conservation Commission, the commission, and any other state or federal agency that might have information that would be beneficial to the board in its determination of terms and conditions of the proposed lease.

Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.277, eff. Sept. 1, 1995.

Sec. 141.075. NOTICE OF SALE. Land offered for lease to the public by the board shall be advertised in four daily newspapers in the state that have general circulation at least 30 days in advance of the sale date. The notice shall be published in three issues of each newspaper.

Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 141.076. BIDS. (a) Sales of leases shall be made by sealed bids.

(b) The board is entitled to reject any and all bids, but if it accepts a bid, the bid must be determined by the board to be in the best interest of the State of Texas.

Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 141.077. LEASES AND PERMITS FOR GOVERNMENTAL AGENCIES. (a) The board may grant permits and leases to state and federal institutions, organizations, or groups desiring to do exploratory or experimental research of geothermal energy and associated resource potentials.

(b) These permits and leases may be granted on land that belongs to the permanent school fund, excluding wildlife refuges and recreational areas.

(c) The permits and leases may be issued or granted for research or experimental purposes under rules and conditions the board determines to be in the best interest of the state.

(d) In granting these leases, the commissioner and board do not have to follow the procedures in this subchapter for leasing to the public.

Acts 1977, 65th Leg., p. 2643, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 141.078. UNIT AGREEMENTS. (a) The board may approve unit agreements of one or more leased tracts on application of the lessees.

(b) Before approving any unit agreement, the board must find that the unit agreement if approved by the board will be in the best interest of the state.

Acts 1977, 65th Leg., p. 2643, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 141.079. REPORT TO LEGISLATURE. During the first 30 days of each regular session of the legislature, the commissioner shall report on the status of the exploration, development, and production of geothermal energy and associated resources under the land governed by this subchapter.

Acts 1977, 65th Leg., p. 2643, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

SUBCHAPTER D. ENFORCEMENT

Sec. 141.101. GENERAL ENFORCEMENT AUTHORITY. (a) In addition to other authority specifically granted to the commission under this chapter, the commission may enforce this chapter or any rule, order, or permit of the commission adopted under this chapter in the same manner and subject to the same conditions provided by Chapters 81 and 85 of this code, including the authority to seek and obtain civil penalties and injunctive relief under those chapters.

(b) If the enforcement authority in Section 81.054, Natural Resources Code, is used to institute a civil action alleging a violation of an NPDES permit or the failure to obtain an NPDES permit issued under this chapter, the attorney general may not oppose intervention by a person who has standing to intervene as provided by Rule 60, Texas Rules of Civil Procedure.

Added by Acts 1983, 68th Leg., p. 5263, ch. 967, Sec. 11, eff. Sept. 1, 1983. Amended by Acts 1995, 74th Leg., ch. 310, Sec. 7, eff. Aug. 28, 1995.

Sec. 141.102. CRIMINAL PENALTY. (a) A person who knowingly, wilfully, or with criminal negligence violates Subchapter B of this chapter or a rule, order, or permit of the commission issued under that subchapter commits an offense.

(b) An offense under Subsection (a) of this section is punishable by a fine of not more than \$10,000 a day for each day a violation is committed.

(c) Venue for prosecution of an alleged violation of this section is in a court of competent jurisdiction in the county in which the violation is alleged to have occurred.

Added by Acts 1983, 68th Leg., p. 5263, ch. 967, Sec. 11, eff. Sept. 1, 1983.